

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

State of Minnesota,  
by Michael Campion, its  
Commissioner of Public Safety,  
  
Plaintiff,  
and

Civil Case No. 08-603 (DWF/AJB)

Robert J. Bergstrom, Craig A.  
Zenobian, Shame M. Steffensen,  
and Christopher D. Jacobsen,  
Plaintiff- Intervenors,  
  
vs.

**THIRD AFFIDAVIT  
OF EMERALD GRATZ**

CMI of Kentucky, Inc.,  
a Kentucky corporation,  
  
Defendant.

COUNTY OF RAMSEY            )  
  )ss.  
STATE OF MINNESOTA        )

Emerald Gratz, being first duly sworn, deposes and states that:

1. I am an Assistant Attorney General in the Public Safety Division of the Minnesota Attorney General's Office and submit this affidavit in conjunction with Plaintiff's Memorandum in Support of Entry of the Consent Judgment and Permanent Injunction.

2. Attached as Exhibit A is a true and correct copy of the article "Source Code Primer: The Inside Scoop on ALL Breath Test Instrument Computers and Electronics," written by Thomas E. Workman Jr. and presented at a conference hosted by the National College for DUI Defense in Texas on April 20, 2007. This article was part of the district

court record in *Bowen v. Commissioner of Public Safety*, No. A08-1267, 2009 WL 1312130 (Minn. Ct. App. May 12, 2009) (unpublished), *petition for rev. filed* (Minn. June 10, 2009).

3. Attached as Exhibit B is a true and correct copy of the “Supplemental Findings and Conclusions of Remand Court” written by the Honorable Judge Michael P. King, Special Master appointed by the New Jersey Supreme Court in *State v. Chun*, 943 A.2d 114 (N.J. 2008).

4. Attached as Exhibit C is a true and correct copy of the written report submitted by Base One Technologies, the software analysis company hired by the defendants to conduct analysis of the source code involved in *State v. Chun*, 943 A.2d 114 (N.J. 2008).

Further your affiant sayeth not.

s/Emerald Gratz  
EMERALD GRATZ

Subscribed and sworn to before me  
this 16th day of June, 2009.

s/Judith Brown  
Notary Public

AG: #2459462-v1